

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 43 of 1993

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GEB

Versus

SANJAY OIL MILLS

Appearance:

MS MAYA DESAI for MR MD PANDYA for Appellant

MR SURESH M SHAH for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 24/12/98

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties. As a result of the hearing and discussion certain facts emerge from the impugned order and from the record.

2. It must first be noted that the respondent plaintiff had filed a suit on the ground that the defendant Electricity Board had raised a certain bill, and since the same was not paid, had effected

disconnection of electric supply. At this stage the respondent plaintiff filed a suit before the Civil Court challenging both the validity of the bill and the right of the Electricity Board to effect disconnection for non-payment thereof. By way of interim relief in the said suit, the plaintiff prayed for mandatory reconnection of electric supply. This interim relief was granted by the trial court and mandatory reconnection was directed. Hence the present appeal at the instance of the original defendant Board.

3. As aforesaid, certain facts emerge from the record in respect of which there is no controversy.

(i) Firstly, the plaintiff is not a consumer of electric supply by the defendant Electricity Board.

(ii) The monetary demand raised under the impugned bill is not a demand made against the plaintiff.

(iii) The monetary demand raised under the disputed bill is made against the consumer of the Board, who is neither the plaintiff nor a party to the suit at all.

(iv) It, therefore, follows that there is no lis between the plaintiff and the defendant Board qua the monetary demand in respect of the disputed bill.

4. It, therefore, follows that if the plaintiff is adversely affected by the disconnection effected by the Board, he may have to establish a right to reconnection otherwise than in the capacity of consumer.

5. It would, therefore, follow that on such obvious and patent facts the trial court could not have granted the injunction which it in fact did.

6. In the premises aforesaid, the impugned order is totally unjustified and is, therefore, quashed and set aside. This appeal is accordingly allowed with no order as to costs.

7. Although it is unnecessary, it may be pointed out that the present findings are for the purpose of the present appeal only, and that the trial court, as and when it hears and decides the suit on merits, will do so in the light of the evidentiary material on record before it at the relevant point of time.
